IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LESLIE PAUL HOWARTH, Plaint	iff :	Civil	Action	No	05-61 т
SHEETZ #27, Defend	ant :	CIVII	ACCION	NO.	03-610
LESLIE PAUL HOWARTH, Plaint	iff :	Civil	Action	No	05 62 1
SHEETZ #21, Defend	ant :	CIVII	ACCION	NO.	05-620
LESLIE PAUL HOWARTH, Plaint	iff :			.,	05 627
SHEETZ #49,	:	CIVII	Action	NO.	05-630
Defend LESLIE PAUL HOWARTH, Plaint	:				
SHEETZ #55, Defend	ant :	Civil	Action	No.	05-64J
LESLIE PAUL HOWARTH, Plaint					05 65 7
SHEETZ #162, Defend	:	CIVII	Action	NO.	05-650
LESLIE PAUL HOWARTH, Plaint					05 667
SHEETZ #127, Defend	:	Civil	Action	No.	05-66J
LESLIE PAUL HOWARTH, Plaint	iff :				
SHEETZ #113, Defend	ant :	Civil	Action	No.	05-67J
LESLIE PAUL HOWARTH, Plaint	: iff :				
SHEETZ #22, Defend	ant :	Civil	Action	No.	U5-68J

MEMORANDUM ORDER

These matters was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C.§ 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed an identical Report and Recommendation in each of these virtually identical matters on July 27, 2005, docket no. 12 at C.A. No. 05-61J, docket no. 12 at C.A. No. 05-62J, docket no. 12 at C.A. No. 05-63J, docket no. 12 at C.A. No. 05-64J, docket no. 12 at C.A. No. 05-65J, docket no. 12 at C.A. No. 05-66J, docket no. 12 at C.A. No. 05-67J, docket no. 12 at C.A. No. 05-68J, recommending that the defendant's motions to dismiss alleging plaintiff failed to make proper service and the complaint failed to state a claim be granted.

The parties were notified that pursuant to 28 U.S.C.§ 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. Plaintiff filed a response in each case on August 1, 2005, docket no. 13 at C.A. No. 05-61J, docket no. 13 at C.A. No. 05-62J, docket no. 13 at C.A. No. 05-63J, docket no. 13 at C.A. No. 05-65J, docket no. 13 at C.A. No. 05-66J, docket no. 13 at C.A. No. 05-66J, docket no. 13 at C.A. No. 05-67J, docket no. 13 at C.A. No. 05-68J, which can be considered an objection to the Magistrate Judge's recommendation on the motion to dismiss for failure to make proper service; plaintiff did not address the Magistrate Judge's conclusion that the complaint failed to state a claim.

After <u>de novo</u> review of the record of this matter together with the Report and Recommendation, and the timely objections thereto, the following order is entered:

AND NOW, this 20 day of August, 2005, it is

ORDERED that the defendant's motions to dismiss are granted under Fed.R.Civ.P. 12(b)(6) only. The portion of the Report and Recommendation recommending that the complaints be dismissed for failure to state a claim is adopted as the opinion of the Court. The Clerk shall mark these matters closed.

BY THE COURT:

GARY L. LANCASTER,

UNITED STATES DISTRICT JUDGE

cc:

Leslie Paul Howarth, Ph.D. 211 Bentwood Avenue Johnstown, PA 15904-1333

David B. Consiglio, Esquire 720 South Atherton Street State College, PA 16801